

## NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

October 29, 2004

The Nebraska Commission on Law Enforcement and Criminal Justice met Friday, October 29, 2004, at 9:30 a.m., in Lower Level Conference Room A of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Legal notice of the meeting was published September 27, 2004 in the Lincoln Journal Star.

### CALL TO ORDER

The meeting was called to order at 9:30 a.m. by Chairman Bruning. The following members were **in attendance**: Scot Arnold, Jon Bruning, Bill Brueggemann, Harold Clarke, Scott Ford, Susan Jacobs, Gary Lacey, Paul Leseberg, Kathy Moore, Tom Nesbitt, Don Overman, Peter Pirsch, Thomas Warren, and William White. **Members excused**: John Becker, Charles Brewster, and James Riskowski. **Staff present**: Allen Curtis, Steve Lamken, Nancy Steeves, Jennifer Thrasher and Barbara McCreight. **Also present**: Mark Starr, Assistant Attorney General.

### APPROVAL OF MINUTES

#### *Motion*

*A motion was made by Overman and seconded by Ford to approve the minutes of the Crime Commission meeting of July 30, 2004; Police Standards Advisory Council meetings of July 21, August 18 and September 15, 2004; Criminal Justice Information Systems Advisory Committee meeting of September 9, 2004; Community Corrections Uniform Crime Data Analysis System Advisory Committee meeting of September 13, 2004; Racial Profiling Advisory Committee meeting of July 19, 2004; and Nebraska Coalition for Juvenile Justice meeting of September 17, 2004. The motion passed unanimously by acclamation.*

Chairman Bruning noted the minutes of the Jail Standards Board meeting of July 16, 2004 and Community Corrections Council meeting of August 13, 2004 were provided for the member's review.

### **III. EXECUTIVE DIRECTOR'S REPORT**

The Executive Director's report was presented by Allen Curtis:

- Jennifer Thrasher was introduced as the new secretary for the Grants Division.
- The budget request submitted by the Commission was outlined in the director's report. If members had specific questions regarding the budget, they could contact Bruce Ayers, Chief of Budget and Accounting.
- The Commission received permission to move forward on two draft legislative proposals submitted to the Governor's Policy Research Office.
- Allen Curtis, Michael Overton, Kristin Crawford of the Governor's Policy Research Office, and several members of the Racial Profiling Advisory Committee attended the PERF Traffic Stop Data Conference in Kansas City. Travel expenses were paid with grant funds available to Sam Walker. The training was excellent.

Research has shown that there is no conclusive evidence that racial profiling does or does not exist. The most valuable approach is to have agencies use internal benchmark checks rather than to collect data statewide. They will suggest that management work with their officers and their community to address problems and perceptions. The Advisory Committee plans to work on developing recommendations to present to the Legislature next year.

- The Community Corrections Uniform Data Analysis System Advisory Committee is negotiating with the Vera Institute of Justice on a data consulting proposal to assist Nebraska is evaluating the state's data needs and systems as they relate to the Community Corrections Council.

The Community Corrections Council's Uniform Crime Data Analysis Fund created with the passage of LB 46 has raised about \$300,000 to date through fines.

- This is the 5<sup>th</sup> year of operation for the VINE program in Nebraska. VINE was included in the Governor's press conference.

## **OLD BUSINESS**

### **Update on Hauser Appeal**

The Commission was notified that *Hauser v. PSAC* is on the "Back up" docket for November 4, 2004. Cases on this list are subject to being called for oral argument upon short notice in order to ensure the court has a full calendar.

## **NEW BUSINESS**

### **Law Enforcement Training Center**

#### **Revocation of Law Enforcement Certification - John E. Schmuck, #LR-030-04, Lincoln, Nebraska**

The Commission next considered a request to revoke the law enforcement certification of John E. Schmuck, #LR-030-04, of Lincoln, Nebraska. Bruning noted the Police Standards Advisory Council acted as the hearing board for this complaint.

Mark Starr, Assistant Attorney General, presented the hearing board's findings regarding the decertification complaint.

Starr noted the revocation complaint involved John E. Schmuck who was a deputy sheriff for the Jefferson County Sheriff's Office and formerly served at the Gage County Sheriff's Office. A summary of the matter was reviewed by Starr.

Jon Bruning recused himself for consideration of this revocation request.

- Starr noted December 17, 1982, John E. Schmuck was awarded a certificate of Basic training and a certification as a law enforcement officer from the Nebraska Law Enforcement Training Center. In March of 1983, he was awarded a certificate of supervisor schooling and a law enforcement supervisor certification.
- On August 24, 2003, Mr. Schmuck was involved in a domestic disturbance at his home. He had gotten off duty as a deputy sheriff and arrived home at about 2:00 a.m. He watched a couple of football games his wife had taped for him earlier in the day. Then he started to dwell on some issues he was having at work and at home. He became angry, admittedly somewhat inexplicitly, he woke his wife up, he berated her and started an argument with her about some dog food. He then blew up, lost control, and began to strike his wife. He had enough presence of mind to know he needed to order her and their son out of the house less something worse happened. The wife

and son left the home and took refuge with Mrs. Schmuck's daughter in Missouri, they remained there for at least several days. Mrs. Schmuck had left the house before to give her husband a chance to calm down and settle down. She said this was the first time he had lost control like this and become violent.

- Mr. Schmuck later went to see a mental health specialist who told him he had had a "red out". This apparently is a situation where one gets so angry that they can not recall the specifics of what occurred or why. All Mr. Schmuck could remember about the time of day was that the sun had risen when the assault occurred.
- On September 24, 2003, Mr. Schmuck pled guilty to a charge of third degree assault because of the incident. He was convicted and fined.
- In May, 2004, Director Curtis appointed Mark Starr to initiate proceedings to revoke Mr. Schmuck's law enforcement officer certification. This request was based on a complaint the sheriff of Jefferson County had lodged with the Commission in mid April.
- On June 1, 2004, a complaint for revocation was filed with the Commission alleging neglect of duty to uphold and enforce the law and secondly, lack of mental or emotional capacity required of a law enforcement officer.
- On approximately June 13, 2004, Mr. Schmuck tendered a voluntary surrender of both of his certifications. Starr noted the materials appear on page 25 on the right side of the PSAC file which would be offered as evidence (Exhibit A).
- Also included with the file is a letter from Mrs. Schmuck that she wanted read at the hearing. Essentially she asked that something be done to help stressed out officers before things get out of hand. She expressed dismay at what was happening to a good man who admitted his wrong and sought to change.
- In a statement Mr. Schmuck gave on September 3, 2003 before the complaint for revocation was filed, he told his employer he knew he could no longer be a police officer after this had occurred.

July 24, 2004, the PSAC met to consider the matter and issued its findings, conclusions and order. (Starr noted it was mislabeled as a complaint, need to look to find the findings, conclusions and order. It was on the left side of the jacket of Exhibit A, pages 2-5.) The Council voted to revoke Mr. Schmuck's certificates subject to this body's review and approval.

Starr offered Exhibit A - PSAC's file on the matter, and Exhibit B - Index to the PSAC file in State v. Schmuck #LR-030-04. No objections were noted and both items were accepted into evidence by Chairman Bruning.

***Motion***

*A motion was made by Nesbitt and seconded by Clarke to revoke the law enforcement certifications of John S. Schmuck, (#LR-030-04) Lincoln, Nebraska upon a finding of clear and convincing evidence submitted by the Hearing Board. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Jacobs, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.*

**Revocation of Law Enforcement Certification - Roddy Schoenrock, #LR-032-04, Fairbury, Nebraska**

Chairman Bruning noted the legal notice for today's meeting also listed the review of a complaint to revoke Roddy Schoenrock's law enforcement certification. However, PSAC did not have a quorum for their October meeting and were unable to consider this request. It will be considered at their November 17<sup>th</sup> meeting.

**Affirm Executive Director's Decision Not to Pursue Revocation of the Law Enforcement Certificate of Jon Fisher, (LR-031-04), Lincoln, Nebraska**

The Commission first considered the decertification request on Jon Fisher, former Lincoln Police Officer.(#LR-031-04). The original complaint was filed by Chief Tom Casady of the Lincoln Police Department stating that Mr. Fisher was accused of taking part in a sexual assault. The case was referred to the county attorney but no further action was taken due to the witness's failure to cooperate with the investigation.

Brenda Urbanek, Deputy Director at the NLETC, was assigned to investigate the case to see if there were grounds for revocation. During her investigation she tried to contact the victim through Detective Sorenson who worked the case. The witness did not respond to Urbanek's request. Urbanek concluded that without the victim's cooperation, it would be very difficult to pursue the investigation to determine if any grounds were present for the revocation of Fisher's law enforcement certification.

Curtis reported the victim had gone to the hospital following the incident and the Lincoln Police Department was notified and began an investigation. Mr. Fisher denied any involvement of having any sexual contact with her. Eventually, DNA was gathered which showed that he did in fact have sexual contact with her. Before he could be terminated, he resigned from the Lincoln Police Department. The victim was not willing to be a witness, she in fact was not sure who ought to be targeted for the assault. Therefore, charges were not filed.

Curtis noted formal criminal charges are not required for a revocation proceeding. However, based on the information provided, Curtis stated he determined that with an

uncooperative witness, it would be difficult to pursue the decertification without exposing the Commission to a long, protracted and costly legal battle.

***Motion***

***A motion was made by Overman and seconded by Brueggemann to affirm the decision of the Executive Director to not pursue the revocation of the law enforcement certification of Jon Fisher, Lincoln, Nebraska (#LR-031-04).***

Since the statute of limitations has not run out, Jacobs questioned whether the Commission would be able to reconsider the request to decertify Jon Fisher if the victim were to come forward later. She suggested the Commission could table action on this case to allow time to consider the policy decision.

Members discussed various options to allow a determination on the case to be made and still allow the Commission to act on the case later if the victim were to be cooperative. Options included making a ruling without prejudice or affirming the decision pending further information.

Nesbitt suggested that a decision could be based on the lack of evidence and if charges were filed, the case could be reopened.

Curtis reported the Commission was charged with decertifying law enforcement certifications but was never given resources to pursue cases. When he became executive director, he agreed to pursue felony cases. That has since expanded to include cases that could be filed as felony cases.

Overman withdrew his motion.

***Motion***

***A motion was made by Jacobs and seconded by Moore to affirm the Executive Director's decision to not pursue the revocation of the law enforcement certification of Jon Fisher, Lincoln, Nebraska (#LR-031-04) at this time with the understanding that the case could be reopened at the discretion of the Executive Director if charges were filed against Jon Fisher. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Jacobs, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously .***

A letter will be sent to Jon Fisher containing the findings of the Commission.

Susan Jacobs was excused from the meeting at 10:05 a.m.

**Affirm Executive Director's Decision Not to Pursue Revocation of the Law Enforcement Certificate of Douglas Clay Klaumann, (LR-033-04), Fairbury, Nebraska.**

Curtis reported on the decertification request by Steven Lamken regarding Douglas Clay Klaumann (#LR-033-04), Fairbury, Nebraska. It was alleged that Mr. Klaumann had failed to report the criminal act of sexual abuse of a child and had assisted in creating a forged high school diploma certificate for Roddy Schoenrock.

Regarding the failure to report charge, Curtis first attempted to determine what and when Mr. Klaumann knew of the sexual assault of the child. A letter from Chief Carmichael, Fairbury Police Department, stated that Klaumann was not guilty of failing to bring the information forward. The chief was aware of the charge and had spoken to the county attorney prior to Klaumann learning of the assault.

Klaumann denied assisting in the forgery of the high school diploma for Roddy Schoenrock. A letter from Schoenrock states that he did not have Mr. Klaumann's help in the forgery and takes full responsibility for the forgery.

Given the above information and the circumstances of the case, Curtis rejected the request to decertify Klaumann.

#### *Motion*

*A motion was made by Moore and seconded by Ford to affirm the Executive Director's decision to not pursue the revocation of the law enforcement certification of Douglas Clay Klaumann (#LR-033-04), Fairbury, Nebraska. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.*

#### **Instructor Certification**

Lamken reviewed the Police Standards Advisory Council's recommendations for instructor certification.

#### *Motion*

*A motion was made by White and seconded by Overman to grant the following instructor certifications per Police Standards Advisory Council's recommendations: Professional Certification to Kathleen Ayres, Nebraska State Patrol, Nathan Flood, Lincoln Police Department (Denied 205 - Civil Process), Bradley Wagner, Nebraska State Patrol (Approved 212 - Hazardous Material Awareness & Operations; Denied 313, FIT Testing), and Professional Recertification to Teresa R. Hruza, Lincoln Police Department, and Charles C. Marti, Lincoln Police Department. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.*

#### **Rescind Rules and Regulations, Title 79, Nebraska Law Enforcement Training**

**Center, Chapter 2, “Certification of Law Enforcement Officers” and Chapter 6, “Certification of Training”**

Chairman Bruning declared a public hearing for the Commission to consider changes to Rule and Regulation, Title 79, Nebraska Law Enforcement Training Center. Notice of the hearing was properly filed for the review of the rules and regulations. Bruning stated the public would be invited to speak following the report on the recommendations of the Police Standards Advisory Council on each chapter.

Curtis stated the Commission had not received any response from the Executive Board of the Legislative Council regarding the proposed changes.

The Commission first considered rescinding Rule and Regulation, Title 79, Chapter 2, “Certification of Law Enforcement Officers” and Chapter 6, “Certification of Training”.

Lamken reviewed the Police Standards Advisory Council’s recommendation to rescind the two chapters of Title 79. Portions of both rules were incorporated into the new draft rules.

There was no one available from the public for comment.

***Motion***

***A motion was made by Clarke and seconded by Ford to rescind Rule and Regulation, Title 79, Chapter 2, “Certification of Law Enforcement Officers” and Chapter 6, “Certification of Training” as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.***

**Amend Rules and Regulations, Title 79, Nebraska Law Enforcement Training Center**

Lamken reported that the Police Standards Advisory Council had been working on redrafting the chapters under Title 79 for the last year. Input was sought from city, county and state law enforcement agencies. In addition, input was sought from the basic certification academies and the professional associations. No negative input was received.

Lamken reviewed the recommendations of the Police Standards Advisory Council on those rules to be amended or adopted under Title 79. It should be noted that the Title 79's heading will change from ~~Nebraska Law Enforcement Training Center~~ to Law Enforcement - Police Standards Advisory Council with the adoption of the recommended changes to rule.



## **Title 79, Chapter 1, “Definitions”**

The proposed changes provide definitions of terms used throughout the proposed new and revised rules. Terms of certification status were added that are commonly used (active, inactive, suspended and revoked). The term “in lieu of” certification was changed to “reciprocity” certification which is the term used by other states.

There was no public comment on the proposed amendments.

### ***Motion***

*A motion was made by Moore and seconded by Pirsch to adopt the amendments to Title 79, Chapter 1, “Definitions” as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.*

## **Title 79, Chapter 3, “Certification of Law Enforcement Officers in Lieu of Attending the Training Center”**

The changes to Chapter 3 include the change in terminology from “in lieu of” to “reciprocity” certification. The changes would allow certified law enforcement officers from other states to complete reciprocity training without being employed by an agency. They would be required to obtain employment prior to being eligible for certification. To be certified they would have to be employed as a law enforcement officer for a period of not less than 180 consecutive days.

It was noted that the 180 days represents a probationary period for some agencies. However, the applicant must also provide evidence that they left the previous law enforcement employment in good standing.

There was no public comment on the proposed amendments.

### ***Motion***

*A motion was made by Overman and seconded by White to adopt the amendments to Title 79, Chapter 3, “Certification of Law Enforcement Officers in Lieu of Attending the Training Center” as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.*

## **Title 79, Chapter 4, “Law Enforcement Officers’ Status Report”**

Lamken noted changes to Chapter 4 included defining certification status and diploma students. It also provided standards for officers who want to reactive their certification after being on inactive or suspended status. Based on the length of the inactive status, training is required for reactivation. After 10 years, they would be required to complete the entire basic certification training.

For those on suspended status, their certificate could be reactivated by meeting conditions set forth by the Council (i.e. handgun or continuing education requirements) and submitting an activation fee.

Lamken stated a model code of ethics used by the State of Idaho was used as a model as they developed a one page "code of ethics" report to be kept on file.

Kathy Moore stepped out of the meeting at 10:23 a.m.

Nesbitt questioned if input from the FOP and other professional organizations was sought on the code of ethics.

Lamken noted it would not be retroactive to those officers currently certified.

In the case of academic failure, appeals would be heard through the PSAC whose decision would be final. Lamken stated other decisions such as revocation would carry through to the Commission.

There was no public comment on the proposed amendments.

### ***Motion***

***A motion was made by Clarke and seconded by Ford to adopt the amendments to Title 79, Chapter 4, "Law Enforcement Officers' Status Report" as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.***

### **Title 79, Chapter 5, "Standards for Basic Student Evaluation"**

Lamken noted changes to the rule would standardize evaluation and testing standards for basic certification training among the basic certification academies of the state. It would also remove the skills testing scores from the required cognitive testing cumulative score requirement. Skills testing would stand alone.

There was no public comment on the proposed amendments.

***Motion***

***A motion was made by White and seconded by Warren to adopt the amendments to Title 79, Chapter 5, “Standards for Basic Student Evaluation” as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.***

**Title 79, Chapter 7, “Standards for Training, Attendance and Certification of Satisfactory Completion of Reserve Force Training”**

Lamken reviewed the amendments to Chapter 7. The revisions included establishing four reserve officer certification status levels to mirror those identified for law enforcement officers. It also established standards to maintain and activate certificates.

There was no public comment on the proposed amendments.

***Motion***

***A motion was made by Pirsch and seconded by Leseberg to adopt the amendments to Title 79, Chapter 7, “Standards for Training, Attendance and Certification of Satisfactory Completion of Reserve Force Training” as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.***

**Title 79, Chapter 8, “Training Center Admission Procedures”**

Lamken stated the proposed amendments to Chapter 8 would provide agencies improved definitions and direction when reviewing applicants for law enforcement employment. Minimum qualifications for basic and reciprocity certification training were listed. 005.01A through 005.01J are statutory requirements. PSAC added 005.01K through 005.01Q as significant issues that should be considered. The rule also provides a better definition of “Good character” and requires each applicant to complete the Council’s Character Affidavit and be subject to a complete background investigation prior to admission to the basic training or reserve certification training.

There was no public comment on the proposed amendments.

***Motion***

***A motion was made by Warren and seconded by Pirsch to adopt the amendments to Title 79, Chapter 8, “Training Center Admission Procedures” as recommended by the Police***

***Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.***

**Title 79, Chapter 10, “Standards for Training, Attendance and Certification of Satisfactory Completion of Tribal Officers Limited Certification”**

Lamken reviewed the amendments to Chapter 10 noting the names of the specific governing bodies were removed and Indian Tribal governments was inserted to make the rule more inclusive. Certification training evaluation standards were also clarified.

Kathy Moore returned to the meeting at 10:35 a.m.

There was no public comment on the proposed amendments.

***Motion***

***A motion was made by White and seconded by Clarke to adopt the amendments to Title 79, Chapter 10, “Standards for Training, Attendance and Certification of Satisfactory Completion of Tribal Officers Limited Certification” as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.***

**Title 79, Chapter 11, “Firearms Certification Standards”**

Lamken stated the changes to Chapter 11 would allow more flexibility in accepting firearms instructor training from other jurisdictions for reciprocity. Changes also added clarification as to what information needs to be submitted when an agency requests a handgun qualification waiver for an officer.

There was no public comment on the proposed amendments.

***Motion***

***A motion was made by Clarke and seconded by White to adopt the amendments to Title 79, Chapter 11, “Firearms Certification Standards” as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.***

## **Adopt Rules and Regulations, Title 79, Nebraska Law Enforcement - Police Standards Advisory Council**

### **Title 79, Chapter 2, “*Law Enforcement Records*”**

Lamken stated the new Chapter 2 defines four essential law enforcement records that are required by statute or rule and regulation regarding admission to training for law enforcement officers. It also sets deadlines for submittal of two of the reports.

Warren left the meeting at 10:40 a.m.

There was no public comment on the proposed amendments.

#### ***Motion***

*A motion was made by Ford and seconded by Overman to adopt Title 79, Chapter 2, “Law Enforcement Records” as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, and White. Motion carried unanimously.*

### **Title 79, Chapter 6, “*Admission Priorities to the Nebraska Law Enforcement Training Center*”**

Lamken stated Chapter 6 was drafted to establish admission priorities for the law enforcement basic certification training at the NE Law Enforcement Training Center.

There was no public comment on the proposed amendments.

#### ***Motion***

*A motion was made by White and seconded by Moore to adopt Title 79, Chapter 6, “Admission Priorities to the Nebraska Law Enforcement Training Center” as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, and White. Motion carried unanimously.*

### **Title 79, Chapter 12, “*Administration of Higher Education Cooperative Certification/Pre-Certification Programs*”**

Lamken reported PSAC drafted Chapter 12 to provide enabling language and direction for PSAC and the Center in working to establish cooperative degree/certification programs with higher education schools.

There was no public comment on the proposed amendments.

***Motion***

***A motion was made by White and seconded by Pirsch to adopt Title 79, Chapter 12, "Administration of Higher Education Cooperative Certification/Pre-Certification Programs" as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, and White. Motion carried unanimously.***

**Title 79, Chapter 13, "Appeals Process"**

Chapter 13 includes revisions of an operating instruction which governed the appeals process for the Center. Lamken stated the rule separates the appeals for academic failure and those appeals from disciplinary and/or discretionary decisions of the NLETC director. Appeals of PSAC's decisions will no longer go forward to the Commission, PSAC will be the final review. Any appeals of PSAC's decision will be filed in court.

There was no public comment on the proposed amendments.

***Motion***

***A motion was made by Overman and seconded by Clarke to adopt Title 79, Chapter 13, "Appeals Process" as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, and White. Motion carried unanimously.***

**Title 79, Chapter 14, "Nebraska Law Enforcement Certification Curriculum"**

Chapter 14 provides for adoption by the PSAC of a basic curriculum for law enforcement certification training at all academies which provide training to students other than just those of their agencies. Academies that train only their officers may develop their own curriculums as long as it encompasses the essential job tasks adopted by PSAC.

There was no public comment on the proposed amendments.

Warren returned to the meeting at 10:45 a.m.

**Motion**

*A motion was made by White and seconded by Moore to adopt Title 79, Chapter 14, "Nebraska Law Enforcement Certification Curriculum" as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.*

#### **Title 79, Chapter 15, "Law Enforcement Academy Instructor Certification"**

Chapter 15 incorporates procedures existing in an operating instruction regarding law enforcement academy instructor certification. It simplifies procedures for certification.

There was no public comment on the proposed amendments.

#### ***Motion***

*A motion was made by Moore and seconded by Leseberg to adopt Title 79, Chapter 15, "Law Enforcement Academy Instructor Certification" as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.*

#### **Title 79, Chapter 16, "Certification of Law Enforcement Academies"**

Chapter 16 presents standards and requirements for basic certification academies to be certified. It clarifies the requirements of the academies and specifies procedures the NLETC Director will follow in conducting annual inspections of the basic academies.

Clarification on section 006.07 was provided by Lamken. An agency that does not conduct basic training sessions for more than 2 calendar years would be required to resubmit an initial application for certification of their academy and pay a \$1,000 reassessment fee. Lamken stated this would not apply to the situation at the Patrol's academy which has kept its academy but has had to cut the recruit training due to budget cuts.

There was no public comment on the proposed amendments.

#### ***Motion***

*A motion was made by Warren and seconded by White to adopt Title 79, Chapter 16, "Certification of Law Enforcement Academies" as recommended by the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.*

**Approve \$ 5,408 Increase in 2003 Juvenile Accountability Incentive Block Grant Award to Grant #03-JA-604, NE Department of Health and Human Services**

Steeves stated that the Juvenile Accountability Block grant funds provided some predetermined awards to communities. The remainder of the award was for the state to distribute to those areas which did not receive predetermined awards. After the Commission's action in July, one community did not accept its predetermined award of \$5,408. The Commission had directed that when communities did not apply for their predetermined awards, these funds were to be added to the state distribution. The recommendation was to direct the state distributed funds to Nebraska's Health and Human Services department to provide trackers, mediation, school intervention workers, electronic monitoring and drug and alcohol testing. Steeves asked that the \$5,408 be directed to grant #03-JA-604.

***Motion***

***A motion was made by Moore and seconded by Brueggemann to approve a \$5,408 increase in 2003 Juvenile Accountability Incentive Block Grant Award to Grant #03-JA-604, NE Department of Health and Human Services. Voting in favor of the motion: Arnold, Brueggemann, Clarke, Ford, Lacey, Leseberg, Moore, Nesbitt, Overman, Pirsch, Warren and White. Motion carried unanimously.***

**VI. OTHER BUSINESS**

Overman commended the staff and Allen Curtis for the work done on the rules and regulations.

Overman reminded members of the new airline, Westward Airways, which flies from Scottsbluff to Lincoln and Omaha.

Arnold noted Hall County Board's appreciation of Lincoln's efforts, in particular Gary Lacey's efforts, regarding the change of venue in their recent child abuse case.

Curtis noted the Commission had been asked to arrange a tour of the Child Advocacy Center as part of this meeting. Staff did contact Lynn Ayers but there was a scheduling conflict. Attempts will be made to arrange a tour at a future meeting date.

**ADJOURNMENT**



There being no further business the meeting adjourned at 10:55 a.m. The next scheduled meeting of the Commission is **Friday, January 28, 2005, at 9:30 a.m.**, in Lower Level Conference Room A of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

Respectfully submitted,

Barbara McCreight  
Administrative Assistant